

## DECLARATION OF SARAH LUTZ

I, Sarah Lutz, declare as follows:

1. I have personal knowledge of the matters asserted in this declaration, and if called upon to testify, I would state the same.
2. I submit this declaration in support of Friends of the Earth's ("FOE") request for expedited processing of its August 17, 2022 Freedom of Information Act ("FOIA") request to the U.S. Environmental Protection Agency (EPA), for certain records concerning communications between the EPA and advocates of the Renewable Fuel Standard (RFS) electrification pathways. *See Attachment #2 to FOE's August 17, 2022 FOIA request (Reuters article from June 23, 2022) detailing findings of previous FOE FOIA EPA-2022-001480 request.*
3. I am a campaigner for the Climate & Energy Justice Program at FOE. In that role, my primary responsibility is to scrutinize government activity that may impact human health and the environment, and to disseminate information on those activities to the public. To that end, I compile information obtained both from public sources, and through FOIA requests, and use my expertise and editorial skills to quickly synthesize the information, develop meaningful alerts, reports, fact sheets, infographics, editorials, etc., and disseminate those products to FOE's members and supporters, journalists and other members of the news media, policymakers, congressional offices, and the public at large. In this way, I help facilitate and promote FOE's primary objective of disseminating information relevant to environmental concerns.
4. A key aspect of our recent work has been the investigation and publication of how biofuel and electric vehicle (EV) industry advocates are working in tandem to benefit from state and federal subsidies, despite dubious climate claims and severe environmental justice harms (*see [this letter to Regan outlining these concerns, including creating perverse incentives that result in increased pollution in environmental justice communities](#)*). Accordingly, the RFS electrification pathways have been of particular concern both to FOE and to the public at large. Indeed, the significant and compelling public interest is demonstrated by the numerous news articles on the topic, *see [June 2022](#), [April 2021](#)*).
5. I have personally published a report and led coalition letters highlighting the constituencies advocating for electricity Renewable Identification Numbers (e-RINs) and how electrification pathways risk our climate and commitment to environmental justice. *See Attachment #3 [Sarah Lutz, Dirty Electricity isn't Renewable Fuel](#); Attachment #5 [June 19, 2021 e-RIN letter to Administrator Regan](#); and Attachment #6 [May 23, 2022 RFS letter to Administrator Regan](#) (Attachment #6).* I have shared these resources with members of Congress and their staff, FOE's members and supporters, and journalists, as well as with the general public by posting them on FOE's website.<sup>1</sup>
6. As described in the FOIA request, the EPA has stated that it will make an announcement on the implementation of e-RINS this Fall. Although the agency has declined to publicly comment on how this dramatic shift in the RFS would be structured, it has continued to meet with industry advocates on this topic. In fact, lobbying disclosures from some of the external entities included in FOE's EPA-2022-001480 FOIA request on this topic indicate that they have since added additional lobbyists on this issue. If rulemaking proceeds without broader input, the EPA risks the

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<sup>1</sup> See FOE [website](#), [May](#) reporting on a FOE-led letter to Regan, and [June](#) reporting on FOE FOIA findings

electrification design being based solely on industry interests and self-serving representations. The public has a significant interest in ensuring that subsidies supporting electrification of transportation are not linked with industries responsible for environmental and health harms.

7. FOE has met with congressional offices to discuss the environmental justice risks posed by RFS electrification pathways. These conversations include discussions of how the pathways will ultimately lead to worsened climate outcomes and public harm from e-RIN feedstocks. *As outlined in Attachment #5*, the electrification pathways would subsidize electricity produced from landfill biogas and factory farm biogas, both of which are disproportionately sited in environmental justice communities and are responsible for significant pollution in those communities. Merely living in proximity to factory farms [decreases life expectancy](#), and monetizing landfill biogas creates a [perverse incentive](#) for risky and harmful operating practices. I have disseminated the above-mentioned report and letters, as well as previous FOIA records to congressional members and their staff, and have been told by congressional staffers that the information is both highly relevant and useful to efforts to improve congressional input on the impact of agencies on environmental justice.

8. FOE's FOIA request will provide information directly relevant to the pending e-RIN announcement and to better inform the ongoing public debate regarding RFS biofuels and environmental justice priorities. This will allow FOE to quickly respond to industry lobbying efforts by disseminating information to its members, Congress, and the public at large. It will also allow the public to better engage with policy decisions that should be made transparently rather than behind closed doors. This also will better ensure that the EPA's announcement is not informed only by the one-sided industry perspective and is accountable to the impacted communities and broader public.

9. Any delay in processing FOE's request will seriously compromise FOE's and the public's interests in meaningfully participating in the policy decisions currently occurring behind closed doors. There is an inherent complexity with e-RINs, which would intertwine support for EVs with the controversial feedstocks that will and/or could qualify for e-RINs, and this complexity demands transparency and full input. This input must occur prior to rulemaking or draft rulemaking. Additionally, any delay in the processing of FOE's request risks delivering information that is ultimately of no utility, as the decision will have already been made. The EPA has indicated an announcement on e-RINs is [pending in the next few months](#) (*see Attachment #1*) and a normal FOIA timeline is unlikely to accommodate this urgency.

10. Finally, any delay in the processing of FOE's request would preclude FOE, the public, and Congress's access to information directly relevant to RFS reform and the design of electrification pathways. If the Environmental Protection Agency does not make the requested information available expeditiously, Congress will weigh in and make recommendations about the pending RFS reset without the benefit of all of the relevant information, which hinders the development and implementation of meaningful and effective solutions to these matters of national importance. Further, the EPA would present a rulemaking or draft rulemaking that has been prepared with largely one-sided industry influence, without the benefit of full stakeholder engagement.

11. For all these reasons, and for the reasons stated in FOE's FOIA request, FOE more than satisfies the requirements necessary to qualify for expedited processing. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge and belief.

Dated: 8/17/2022 *Sarah Lutz*